

REMARKS

The Applicants thank the Examiner for his careful analysis of the specification and claims. Claims 1-32 are pending in the current case. Claims 1-6, 11-18 and 23-24 are rejected; claims 7-10 and 19-22 are objected to; claim 25 is allowed and claims 26-32 are withdrawn from consideration.

The Examiner stated that claims 26-32 were not properly withdrawn from consideration in the previous response. In view of the above amendment, the Applicants submit that the claims are now properly removed from consideration in the case.

The Examiner has rejected claims 15-18 under 35 U.S.C. §102(b) for anticipation by Frese, Jr., US Patent 2959,875. The Examiner states that all of the limitations of claims 15-18 are taught by the '875 patent. However, the Examiner stated that claim 19, which is dependent on claim 15, would be allowable if rewritten in independent form. Claim 15 has now been amended to include the limitations of claim 19 and is therefore no longer anticipated by the '875 patent. As claims 16-18 are dependent on the newly amended claim 15, they are also not anticipated by the '875 patent. Therefore the rejection of claims 15-18 under 35 U.S.C. §102(b) is traversed.

The Examiner has rejected claims 1-4, 11-14 and 23-24 for obviousness under 35 U.S.C. §103(a) in view of the '875 patent. The Examiner states that all of the essential aspects of the claims are taught by Frese, Jr. and that the optimization of the roughness of the surface of the slip resistant portion would be routine and well within the ability of those skilled in the art. The Applicants have amended claim 1 to include the limitations of claim 7 which the Examiner stated would be allowable if rewritten in independent form. Therefore, as the newly amended claim 1 is equivalent to claim 7 written in independent form, it should now be allowable. Claims 2-4 and 11-14 are all dependent either directly or indirectly on claim 1. Therefore, they are also not anticipated in view of the prior art and are allowable.

Claims 23-24 are dependent either directly or indirectly on the newly amended

claim 15 which now includes the limitations of claim 19. Therefore, they are also not anticipated in view of the prior art. Thus the rejection of claims 1-4, 11-14 and 23-24 under 35 U.S.C. §103(a) is traversed.

The Examiner has rejected claims 5 and 6 for obviousness under 35 U.S.C. §103(a) over the '875 patent in view of Wood, US Patent 1,867,461. Claims 5 and 6 are dependent either directly or indirectly on the newly amended, now allowable claim 1 and are therefore not obvious in view of the prior art. Therefore, the rejection of claims 5 and 6 under 35 U.S.C. is traversed.

The Applicants have added claims 33 and 34 which include all of the limitations of claims 1 and 15 respectively, as well as the limitation of the slip-resistant surface being formed integrally on the surface of the arch support. This limitation is supported at many places in the specification including line 1 of paragraph 0006 where it states, "the non-slip surface [of the arch support] is a molded surface texture." This is clearly distinct from the '875 reference that teaches a slip resistant surface in a sock lining wherein the non-slip members, 26 and 28 are attached to the sock lining by insertion through slots, 30, and held in place by stitching 32 or the like. The non-slip members 26 and 28 project upward from the sock liner and are made of a material different from the liner, preferably a resilient material such as sponge-rubber or the like (col 2, lines 7-9). Therefore, the sock liner material and the non-slip material must meet at a junction point. As can be readily seen in Figure 6 of the '875 patent, the sock liner becomes thicker at the point of insertion of the non-slip members. This uneven thickness may result in irritation of the foot. This is clearly undesirable. In the instant invention, the non-slip portion is created integrally in the arch support device; therefore, there is no change in thickness of the support at the junction of the non-slip surface and the smooth surface of the arch support. This continuous surface does not result in irritation of the foot.

The Applicants believe that the sock liner of the '875 patent could not be readily

modified to include a slip resistant surface that is integral to the sock liner. The material between the slip resistant portions in the sock liner is shown to be thinner than the resilient, slip resistant portions. Due to the typically tight fit of high heeled shoes, a thin material would be required. Texturizing such a thin surface would likely make it thinner and fragile. This would clearly be disadvantageous for use in a shoe. The Applicants submit that the newly added claims are clearly distinct from the prior art and that they should be allowable.

FEES


The Applicants have enclosed a check for the amount of \$296, \$210 for the two month extension and \$43 each for the two additional independent claims in excess of 3. It is believed that no additional fee is due with this amendment. However, if an additional fee is due, the Commissioner is hereby authorized to charge Deposit Account 02-4070 referencing case number 6943-PA02.

CONCLUSIONS

In view of the forgoing arguments and amendments, the Applicants submit that the application is now in proper form for allowance. If any outstanding issues remain, the Examiner is invited to call the agent for Applicant collect at the number listed below.

Respectfully submitted,

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